

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA VIDAL,)
 ANTONIO ALARCÓN, ELIANA FERNANDEZ,)
 CARLOS VARGAS, CAROLINA FUNG FENG,)
 M.B.F., by her next friend LUCIA FELIZ,)
 XIMENA ZAMORA, SONIA MOLINA)
 and JOHANA LARIOS SAINZ,)

Case No. 1:16-cv-04756 (NGG)(JO)

August 28, 2020

On behalf of themselves and all other
similarly situated individuals,

and MAKE THE ROAD NEW YORK,

On behalf of itself, its members, and its clients,

Plaintiffs,

V.

CHAD WOLF, in his official capacity as the
purported Acting Secretary of Homeland Security,
et al.,

Defendants.

PLAINTIFFS' NOTICE OF MOTION FOR CLASS CERTIFICATION

PLEASE TAKE NOTICE that Plaintiffs shall move before the Honorable Nicholas G. Garaufis, U.S.D.J., at the U.S. District Court for the Eastern District of New York, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on October 7, 2020, for an Order pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2) certifying a class of Plaintiffs defined as: (1) A “DACA Class” (for the claims challenging the appointment of Defendant Wolf and the legality of the 2020 Wolf Memorandum and its implanting guidance, including the 2020

Edlow Memorandum): All persons who are or will be *prima facie* eligible for deferred action under the terms of the 2012 Napolitano Memo; and (2) A “Pending Applications Subclass” (for the claims challenging the application of the 2020 Wolf Memorandum and its implementing guidance, including the 2020 Edlow Memorandum, to certain DACA applications): All persons who had an application for deferred action through DACA, whether a first-time or renewal, pending at USCIS on any date between June 30, 2020, and July 28, 2020, that have not been or will not be adjudicated in accordance with the 2012 Napolitano Memorandum. *Excluded* from the DACA Class and the Pending Applications Subclass are individuals who are *prima facie* eligible for deferred action through DACA and who bring a federal lawsuit challenging the Wolf Memorandum.

This motion is based on the accompanying Memorandum of Law and the Declarations and Attachments annexed thereto, as well as Plaintiffs’ Fourth Amended Complaint also filed on this date, and any other evidence that may be presented to the Court before or at the hearing on this motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to the schedule ordered by the Court on August 24, 2020, Defendants’ opposition papers shall be filed on September 18, 2020, Plaintiffs’ Reply shall be filed on October 2, 2020, and oral argument shall be heard on October 7, 2020 at 2pm.

Respectfully submitted,

Dated: August 28, 2020

/s/ Trudy S. Rebert

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* Motion for law student appearance
forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2020, a true and correct copy of the foregoing Motion for Class Certification was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

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